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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,577	12/22/2003	Matt Sveum	92/P03-014A	7985

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EXAMINER	
LUPINO, GINA M	

ART UNIT	PAPER NUMBER
3652	

MAIL DATE	DELIVERY MODE
09/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/743,577	SVEUM ET AL.	
	Examiner	Art Unit	
	Gina M. Lupino	3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *20 June 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-45* is/are pending in the application.

4a) Of the above claim(s) *1-26* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *27-45* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

I. New and Cancelled Claims

1. The Examiner acknowledges Applicant has cancelled claims 1-26 and added new claims 27-45. Thus, the following office action concerns claims 27-45.

II. Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless -
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 27-45 are rejected under 35 U.S.C. 102(b) as being anticipated by HAGEMAN (U.S. Patent No. 4,784,567).

1.1. With respect to claim 27, HAGEMAN discloses a method of operating a vehicle brace engageable adjacent to a vehicle's rear edge (Figures 1, 2) as material handling equipment traverses the edge while accessing the vehicle, the method comprising:

1.1(a) causing the vehicle brace to apply a reactive upward force adjacent to the vehicle's rear edge, to dampen downward movement of the vehicle's rear edge that would otherwise result from the applied weight of the material handling equipment.

1.2. With respect to claims 28-37, HAGEMAN discloses the method discussed above and

1.2(a) (Claim 28) limiting the upward force to a predetermined upper limit that is below a value at which the reactive upward force would damage the vehicle's structure.

1.2(b) (claim 29) allowing the brace to yield for an upward force that exceeds the predetermined upper limit.

1.2(c) (Claim 30) where the upward force is created by preventing movement of the brace until the upward force reaches the predetermined upper limit.

1.2(d) (Claim 31) where the upward force minimizes downward movement of the rear edge by being substantially equal to a downward force resulting from the equipment weight until the upward force reaches the predetermined upper limit.

1.2(e) (Claim 32) increasing the reactive upward force in response to an increase in a rate of descent of the vehicle's rear edge.

1.2(f) (Claim 33) increasing the upward force is carried out by forcing fluid through a flow restriction 19. See column 2, line 1.

1.2(g) (Claims 34, 35) causing the brace to exert an upward force by (Claim 34) applying frictional drag, and (Claim 35) storing energy in a spring. See Response to Arguments, below.

1.2(h) (Claims 36) sensing when the vehicle is about to be loaded or unloaded. See column 3, lines 60-61.

1.2(i) (Claims 37) raising a vehicle restraining member to limit horizontal movement of the vehicle. See Figures 1-2.

1.3. With respect to claim 38, HAGEMAN discloses a method of stabilizing a vehicle 3, 4 parked adjacent a loading dock 9 as handling equipment traverses a rear edge of the vehicle, the method comprising:

1.3(a) exerting a reactive force upward adjacent to the rear edge of the vehicle (Figure 2) to oppose a downward force exerted by the vehicle and the handling equipment as the handling equipment traverses the rear edge, such that the rear edge is capable of remaining at a substantially fixed height when the downward force is below a predetermined magnitude. See Figure 2.

1.4. With respect to claims 39-45, HAGEMAN discloses the method discussed above and:

1.4(a) (Claim 39) allowing the vehicle's rear edge to descend slowly when the downward force is above the predetermined magnitude. See Figures 1, 2.

1.4(b) (Claim 40) the predetermined magnitude is capable of being a force magnitude below that which would damage the vehicle.

1.4(c) (Claims 41-43) exerting the reactive force is carried out by:

1.4(c)(i) (claim 41) forcing a fluid through a flow restriction 19. See column 2, line 1.

1.4(c)(ii) (Claim 42) applying frictional drag.

1.4(c)(iii) (claim 43) storing energy in a spring.

1.4(c)(iv) See Response to Arguments, below.

1.4(d) (Claims 44) sensing when the vehicle is about to be loaded or unloaded. See column 3, lines 60-61.

1.4(e) (Claims 45) raising a vehicle restraining member to limit horizontal movement of the vehicle. See Figures 1-2.

III. Response to Applicant's Arguments

Applicant's arguments entered June 20, 2007 have been fully considered.

1. Applicant's arguments with respect to the rejection of claims 27-45 under 35 U.S.C. 102(b) are not persuasive.

1.1. **With respect to claims 27, 38 Applicant argues HAGEMAN is missing features recited by amended independent claim 1**. However, the Examiner disagrees with the Applicant.

1.1(a) With respect to claim 27, Applicant argues HAGEMAN does not take steps to slow, stop, and/or prevent the vehicle from moving vertically during loading operations, but instead the restraint goes "along for the fide" during loading and unloading operation, and does not minimize, slow, dampen, prevent or impede downward vertical movement of a vehicle. However, the Examiner disagrees with the Applicant.

1.1(a)(i) HAGEMAN teaches the restraint dampens the downward movement caused by weight applied to the vehicle's edge. While HAGEMAN does not explicitly discuss this dampening effect, HAGEMAN inherently teaches this dampening effect.

1.1(a)(ii) First, the frictional force between the shaft and cylinder creates an upward force in the opposite direction of the vehicle's downward movement, opposes the downward force due to weight, and thus slowly dampens this downward movement.

1.1(a)(iii) Secondly, the compressible nature of the air in the gas cylinder provides an upward, spring force. The shock absorption nature of the compressible fluid in the gas spring dampens the downward movement of the vehicle.

1.1(a)(iv) Overall, HAGEMAN teaches a vehicle restraint that engages a vehicle's rear edge, such that, when weight is applied downward upon

the vehicle's rear, the restraint applies reactive upward frictional and spring forces, which ultimately slow, minimize, and dampen the downward movement of the vehicle's edge, as required by claim 27.

1.1(b) With respect to claim 38, Applicant argues HAGEMAN does not teach a method of stabilizing a vehicle by exerting a reactive force upward against the vehicle's rear edge to oppose the downward force imposed by equipment traversing the vehicle's rear edge. However, the Examiner disagrees with the Applicant. As discussed above, HAGEMAN teaches a vehicle restraint that exerts upward frictional and spring forces, which arise in reaction to a downward force imposed by equipment traversing the vehicle's rear edge. Thus, HAGEMAN teaches the limitations of claim 38, as discussed above.

IV. Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gina M. Lupino whose telephone number is (571) 272-6577. The examiner can normally be reached on Monday - Friday, 9:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on (571) 272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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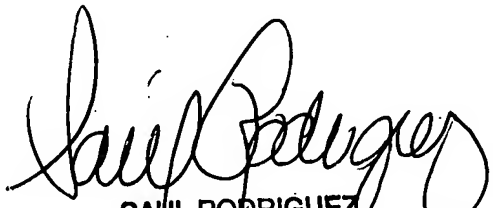

SAUL RODRIGUEZ
SUPERVISORY PATENT EXAMINER